



# PLANNING COMMISSION SYNOPSIS

Thursday, June 11, 2015

## CALL TO ORDER

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Chairperson Nordstrom called the Planning Commission meeting to order at 6:00 p.m. in the Council Chambers of the Bloomington Civic Plaza.

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**COMMISSIONERS PRESENT:** Nordstrom, Willette, Spiess, Batterson, Fischer, Goodrum (arrived at 6:05pm)

**COMMISSIONERS ABSENT:** Bennett

**STAFF PRESENT:** Pease, Farnham, Lee, O'Day

Chairperson Nordstrom led the attendees in the reciting of *The Pledge of Allegiance*.

## ITEM 1 6:03 p.m.

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<b>CASE:</b>	10933A-15
<b>APPLICANT:</b>	Granite Pointe Properties LLC (owner) Kalli's Popcorn Shop Inc. (user)
<b>LOCATION:</b>	8722 Lyndale Avenue
<b>REQUESTS:</b>	Conditional use permit for a popcorn restaurant with no indoor seating

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## PUBLIC HEARING DISCUSSION:

Nordstrom noted the first two items are final decisions by the Planning Commission. The other items will follow a normal process, with the Planning Commission acting as an advisory commission to the City Council.

Pease identified the parcel location and explained the three tenant building is currently under construction. Tony's Appliance would occupy most of the building and Kalli's Popcorn would be located in the middle tenant space. A third tenant is currently unknown. Pease described the floor plan, including the kitchen and retail section.

Pease stated staff recommends approval of the conditional use permit for a popcorn shop subject to the conditions and Code requirements listed in the staff report. Pease stated that staff is comfortable that Kalli's Popcorn is more of a retail use with no parking concerns. The only concern is odor control and there is a condition related to that issue.

The public hearing was closed via a motion.

Spiess said this is a good use of property and similar to an approval that Planning Commission made at the last meeting. Nordstrom stated he would probably go to Kalli's Popcorn and Willette agreed.

Nordstrom stated the Planning Commission decision on this item is final unless a written appeal is received before 4:30 p.m. on June 16, 2015.

Pease asked the applicant when he plans to open the store. The applicant stated in August or September.

## ACTIONS OF THE COMMISSION:

**M/Willette, S/Spiess:** To close the public hearing. Motion carried 5-0. (Goodrum temporarily absent)

**M/Batterson, S/Willette** In Case 10933A-15, having been able to make the required findings, I move to adopt a resolution approving a conditional use permit for a popcorn restaurant with no indoor seating at 8722 Lyndale Avenue subject to the conditions of approval and Code requirements listed in the staff report. Motion carried 5-0. (Goodrum temporarily absent)

**CONDITIONS OF APPROVAL APPROVED BY THE COMMISSION:**

The conditional use permit for a restaurant located at 8722 Lyndale Avenue South (Case 10933A-15) is subject to the following conditions of approval prior to the issuance of any permits:

1. If ventilation that emits restaurant related odors to the exterior is installed or retrofitted at a later date, an odor control system must be installed as approved by the Environmental Health Division.
2. Sewer Availability Charges (SAC) must be satisfied.

And, while the use and improvements must comply with all applicable local, state and federal codes, the applicant should pay particular attention to the following Code requirements:

1. Food service plans must be approved by the Environmental Services Division (City Code Sec. 14.360).
2. All trash and recyclable materials must be stored inside the principal building (Sec. 19.51).
3. Recyclable materials must be separated and collected (Sec. 10.45).
4. All rooftop equipment must be fully screened (Sec. 19.52.01).
5. Sign Design must be in conformance with the requirements of Chapter 19, Article X of the City Code.

**ITEM 2**  
6:08 p.m.

<b>CASE:</b>	2037B-15
<b>APPLICANT:</b>	Engelsma Limited Partnership (owner) Burn Personal Training (user)
<b>LOCATION:</b>	9728 Lyndale Avenue
<b>REQUEST:</b>	Conditional use permit for a health club in an existing retail center

**PUBLIC HEARING DISCUSSION:**

Pease explained Burn Personal Training is located in Clover Center off 35W and 98<sup>th</sup> Street. The applicant currently occupies a smaller tenant space and would like to relocate to a larger space. The previous condition of approval limited the square footage and tenant location so the applicant must complete the approval process for the new location. The floor plan is essentially the same as the current floor plan, just a bit longer. This is a final decision by the Planning Commission unless there is an appeal.

Pease stated staff is recommending approval of the conditional use permit for a health club in an existing retail center subject to the conditions of approval and Code requirements listed in the staff report.

The public hearing was closed via a motion.

Batterson is pleased they are growing and need a larger space.

Nordstrom stated the Planning Commission decision on this item is final unless a written appeal is received before 4:30 p.m. on June 16, 2015.

**ACTIONS OF THE COMMISSION:**

**M/Spiess, S/Willette:** To close the public hearing. Motion carried 6-0.

**M/Batterson, S/Spiess** Having been able to make the required findings in Case 2037B-15, I move to adopt a resolution approving a conditional use permit for a health club in an existing retail center at 9728 Lyndale Avenue subject to the conditions of approval and Code requirements listed in the staff report. Motion carried 6-0.

**CONDITIONS OF APPROVAL APPROVED BY THE COMMISSION:**

The Conditional Use Permit for a health club is subject to the following Conditions of Approval:

1. Conditional Use Permit is limited to the floor area shown on plans in Case File 2037B-15.
2. Sewer Availability Charge (SAC) must be satisfied.
3. Prior to occupancy, the applicant must coordinate inspection of exit signage and emergency lighting with the City of Bloomington Fire Marshal.
4. Maximum occupancy is limited to 15 patrons unless approved by the Planning Manager.

And, while the use and improvements must comply with all applicable local, state and federal codes, the applicant should pay particular attention to the following Code requirements:

1. Signage must be in conformance with the requirements of Chapter 19, Article X of the City Code.

2. All trash and recyclable materials must be stored inside the principal building (Sec. 19.51).

**ITEM 3**  
*6:12 p.m.*

<b>CASE:</b>	3400A-15
<b>APPLICANT:</b>	Redemption Lutheran Church and School (owner) Verizon Wireless (user)
<b>LOCATION:</b>	927 East Old Shakopee Road
<b>REQUEST:</b>	Revision to final site and building plans to construct a 65 foot bell tower with screened wireless antennas

**PUBLIC HEARING DISCUSSION:**

Pease explained the applicant has requested this item be continued to the July 9, 2015 Planning Commission meeting concerning the placement of the tower.

**ACTIONS OF THE COMMISSION:**

**M/ Spiess, S/Fischer** to continue Case 3400A-15 to the July 9, 2015 Planning Commission meeting.  
Motion carried 6-0.

**ITEM 4**  
6:13 p.m.

<b>CASE:</b>	10959A-15
<b>APPLICANT:</b>	Adawe Jimale (owner and user)
<b>LOCATION:</b>	9440 Penn Avenue
<b>REQUEST:</b>	Variance to reduce the front yard setback from 10 feet to 0 (zero) feet for two retaining walls under 4 feet in height

**PUBLIC HEARING DISCUSSION:**

Pease identified the parcel location and explained the house is approximately 15 feet from the front property line. Pease estimates the house was built in the 1890s. The exterior and interior have changed over time but the architectural style is still present. The applicant, without knowledge of the City Code, built a retaining wall in the setback. The existing field stone wall was constructed prior to expansion of Penn Avenue.

The applicant is in the process of installing a new driveway and the added width provides a larger opening. There are many retaining walls that abut a sidewalk and are legally non-conforming. In the mid-1990s, the City Code changed to clarify a 10 foot setback requirement mainly to preserve area for public utilities and future sidewalks. Also in the 1990s, elsewhere in the City, an incident with a fire hydrant being located too close to a sidewalk increased the awareness of the liability issues. Therefore, the City Code was amended to require a two foot separation from the sidewalk for any improvements. The existing wall does not meet the Code but it is legally non-conforming. The only options to allow the wall to remain are a variance or a Code change.

Pease stated the north wall is approximately 26 feet and the south wall is approximately 25 feet in length. About three feet of the wall is in the public right-of-way. The applicant is limited to a 15 foot wide driveway in the newly created 29 foot opening. Maintaining a 5 foot side yard setback to the south is required by the City Code. There is about 9 feet of landscaped area between the north wall and the proposed driveway so the applicant could slope the area providing the similar benefit as the retaining wall. Staff believes that a code change would be an appropriate option than approving the variance, should the Commission find the request acceptable.

Pease discussed the four Findings staff could not make. They include:

Finding A as the ordinance purpose and intent of the increased setback decreases the impact on potential construction activity along the public right-of-way, to provide a more open character along streets and to provide adequate separation from a sidewalk for safety reasons.

Finding C as the purpose of both the northern and southern retaining walls could be accomplished via grading. Staff could not find sufficient practical difficulty to merit to support a variance.

Finding C(ii) as the need for the retaining walls is not created by circumstances unique to the property given that the grade differential between the driveway and the yard area on either side could be addressed via sloped landscaped areas.

Finding C(iii) as the wall would not complement the character of the Class IV historic building or existing wall.

Pease stated staff recommends denial of the variance to reduce the front yard setback from 10 feet to 0 (zero) feet for two retaining walls under 4 feet in height at 9440 Penn Avenue.

Fischer asked if the variance is denied, what would happen to the wall. Pease said appropriate action would be taken to gain compliance.

Goodrum asked if the applicant can build up to the required 10 foot setback. Pease said this wall would be legal. Goodrum noted that there are buildings in Bloomington that are built right up to the sidewalk and create no safety hazards. Pease stated that in an urban setting, sidewalks are typically 10-14 foot wide so the inherent safety issues decline, whereas a 6 foot wide sidewalk has more opportunity for issues.

Batterson inquired if there was a wall along the edge of the driveway in the before photo in the GIS. Pease noted the wall turned slightly for about 3 feet on the north side but did not appear to extend beyond that point. Batterson stated that couple of feet extended in the right-of-way. Pease said that is correct. Batterson noted there is a 6 foot sidewalk next to a major arterial street. Pease stated he believes it may be a 5 foot wide sidewalk.

Nordstrom asked the applicant if he wanted to speak and the applicant declined.

The public hearing was closed via a motion.

Batterson noted there is a narrow sidewalk and the importance of preserving the 10 foot setback in case of utility or sidewalk work. He stated there were other options as described by staff and the wall was not there previously. Batterson could not support the variance.

Goodrum explained possible reasons to make the findings. Primarily the applicant had a personal preference to build a wall against a driveway. There is an existing retaining wall along Penn Avenue and it is a personal preference to attach it to an existing wall. Goodrum recognizes the safety and historic issues but states there are other walls and buildings that are up against a sidewalk that pose no safety concern. He noted that the applicant narrative states there was an underground wall already on the site. Pease stated if there was a wall, it is not visible in the City records..

Spiess agrees with Commissioner Batterson regarding a safety issue. Spiess said, in the past, Planning Commission has tried to stay in compliance with the setback requirements and therefore would not support the request.

Fischer noted the area needs a bit of cleaning up. He also states the block wall is not aesthetically appealing. He believes this was not an intentional action.

Nordstrom noted there are places with retaining walls that are grand-fathered in. But when everything is redeveloped, the City Code comes to play. The precedent is do not mess with character of neighborhood. He states that the applicant should have checked first before building the wall.

Goodrum stated the wall will not change the safety as the wall already exists. He provides Toro Company and Ziegler as an example where we granted front yard variances in the past. He noted that Planning Commission has to be careful setting precedents.

Nordstrom stated this item will be heard at the June 22, 2015 City Council meeting.

#### **ACTIONS OF THE COMMISSION:**

**M/Spiess, S/Willette:** To close the public hearing. Motion carried 6-0.

**M/Spiess, S/Willette** In Case 10959A-15, being unable to make 4 out of the 6 required findings, I recommend denial of the variance to reduce the required front yard setback from 10 feet to 0 feet for two retaining walls less than 4 feet in height at 9440 Penn Avenue South. Motion carried 4-2. (Goodrum and Fischer opposing)





**ITEM 5**  
*6:37 p.m.*

<b>CASE:</b>	8926A-15
<b>APPLICANT:</b>	Park Place on France (owner) Park Place Bloomington, LLC (user)
<b>LOCATION:</b>	10700 France Avenue
<b>REQUEST:</b>	Major revision to final development plan to modify an approved one phase development to a two phase development

**PUBLIC HEARING DISCUSSION:**

Pease explained the applicant has withdrawn the application. He stated a recent newspaper article announced two of the restaurants tenants. The first is Pie Five and the second is Willy McCoy's.

**ACTIONS OF THE COMMISSION:**

**M/Spiess, S/Fischer** In Case 8926A-15, I move to accept the withdrawal letter of the applicant as attached in the staff report. Motion carried 6-0.

**ITEM 6**  
 6:39 p.m.  
 (study item)

<b>CASE:</b>	10001A-15
<b>APPLICANT:</b>	City of Bloomington
<b>LOCATION:</b>	N/A
<b>REQUEST:</b>	Update on Creative Placemaking Plan in the South Loop District

**SPEAKING FOR THE APPLICANT:**

Larry Lee, Community Development Director

**STAFF PRESENTATION AND COMMISSION INPUT AND DISCUSSION:**

Lee said that Creative Placemaking activities started in Bloomington 2 years ago with the receipt of a National Endowment for the Arts grant. The grant period is two years: September 2014-August 2015. The main idea is to begin the process of Creative Placemaking in the South Loop district and use what we learn in other areas of Bloomington. The presentation will give an overview of what Bloomington has done in last two years and provide background on our process to prepare the draft plan. Lee noted that Staff will be back before the Planning Commission in July with a draft plan to review.

Lee presented a PowerPoint that emphasized the following ideas:

- Vision: Lee noted that the vision for the South Loop District Plan is really a creative placemaking vision.
- NEA Grant: \$100,000 was funded by the NEA, with a match of \$100,000 from BTAC, the City and other sponsors. Grant period runs through August 31, 2015.
- Demonstration Projects: Lee described the four demonstration projects funded by the NEA grant.
- Creative Placemaking Plan: The plan will include five components: Vision and Goals, Governance, Management, Budget and Activities.
- Vision and Goals: “Art at the Core” as the guiding vision to transform the district. Key goals include: enhancing the built environment, activating social and cultural environment, building leadership, engaging stakeholders, (hosts – property owners who have potential to create placemaking on their property), elevating the South Loop, and fostering the creative sector.
- Early successes – increased stakeholder engagement and identifying an emerging host network.
- Building muscle – increased staff awareness and acceptance, road-tested the City’s regulations and development review process, collaborated with outside groups. BTAC, soon to become “Artistry”, developed new skills by going beyond the City Hall and bringing art into the community.
- Lessons learned – Creative placemaking can help branding the South Loop district, build social fabric and inspire stakeholders, foster development that invites people to explore. Staff has learned that hosts and artists need support. Sustaining creative placemaking efforts will take administrative time and technical skills. PR/marketing is necessary and a skill set we do not have in house.
- Timeline: Next 2-4 years will be the Momentum Phase, and will lead to the Permanent Phase that will go beyond South Loop.
- Momentum Phase Components: The plan will include the following components: Activities, Governance (include an advisory committee with 9 members including appointments by the Council, Artistry Board, and residents), Management, (part time city staff person supplemented with contracted expertise) and Budget (total \$400,000 funded by the South Loop Development Fund which comes from liquor and lodging taxes). Lee showed how the \$400,000 is allocated in a rough sense.

- Next steps – finalize draft plan, City Commissions to review draft plan in early July, then City Council and Artistry Board will approve plan in late July or August.

Lee asked if there were any questions.

Willette noted that the hotel across the street has a public patio and asked if Bloomington gave financial support to that project. Lee stated that the owner is responsible for designing and building the patio and the owner will be maintaining it. Farnham stated that the patio project was not part of the demonstration projects. Lee said that there is a subsidy or return on investment with those projects depending on the performance of the project. Willette noted that the patio is a nice asset. Lee noted Alpha B is a great use of space with coffee shops and other amenities in the area.

Batterson asked what the logic was behind the committee membership. Lee noted it is somewhat arbitrary. Staff looked at Bloomington's Visitors Bureau as a model and example. Since the City is putting forth funding, it makes sense for the City have majority representation. Artistry would also appoint some members. The language allows City Council and Commission members as well as City staff to be part of the committee. He also confirmed that not all members must be Bloomington residents, though a majority must. The language is permissive and does not require minimum representation from specific groups.

Fischer asked if there are other cities partaking in placemaking. Lee said St. Paul and Minneapolis started a couple years ago. Farnham noted that St. Louis Park has a placemaking program. Lee said Edina has an arts program. Farnham noted other areas around the world that are participating in placemaking.

Lee noted that the purpose of this overview was to provide background information ahead of the Commission receiving the draft plan to review. Farnham noted that the draft plan will be included in the packet for the July 9 meeting.

Planning Commission June 18 and June 25 meetings are cancelled.

The meeting adjourned at 7:13 p.m.

**Prepared By:** LO **Reviewed By:** LP, JF

**Approved By Planning  
Commission:** 7/9/15

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